

wastewater generated on site. There were no significant project changes contemplated during the December 11, 2008 hearing.

- g. On May 14, 2009, the applicant submitted an engineering plan to supplement its ROWD; including an increase in flow to 37,000 gpd. However, the applicant's submittal did not respond to all of staff's concerns expressed at the meeting on April 21, 2009.

(3)(g): The Tentative Order does not specify which of staff's concerns have not been addressed. La Paz can only assume that the Board's "concerns" relate to staff's requested changes in treatment plant design which were as previously noted inappropriately made by staff in violation of Water Code §13360. The increase in flow was solely responding to staff's requirement for design based upon code flows as was requested in the Board's February 28, 2008 incompleteness letter (i.e., that change was driven by Board staff comments). The applicant submitted the Title 22 Engineering Report for the Production, Distribution & Use of Title 22 Disinfected Tertiary Recycled Water as requested by the Board. It is La Paz's contention that the report contains more than sufficient information necessary to process La Paz's permit and that the Board staff appears to be taking issue with the manner of compliance proposed by the applicant not the purported lack of information presented by the applicant.

- f. April 21, 2009: comments provided during a meeting, including, among others, (i) the proposal did not appear to be a 'zero discharge' project (given an anticipated rise in the water table), (ii) the engineering report needed further design development; and (iii) a proposed provision for emergency discharge would not be protective of water quality.

4(f): La Paz does not agree with Board staff's comment that there is "an anticipated rise in the water table." Nothing in La Paz's engineering report or accompanying materials predict a rise in the groundwater table. La Paz acknowledges that it prepared and submitted a transient water mounding study as part of its April 2, 2009 Title 22 Engineering Report; that this study did model "temporary" rises in groundwater beneath certain areas of the leach fields used for "emergency" discharge of off specification flows; however, La Paz maintains that its no discharge system will not, under normal operating conditions, create any rise in groundwater. La Paz's project engineer, Lombardo & Associates, Inc., will be submitting additional materials under separate cover providing 10 years of data for Pepperdine University demonstrating that standard irrigation practices with reclaimed water can and do achieve a mass balance without occasioning a rise in groundwater levels contrary to the Board staff's assertions. While temporary and cumulatively inconsiderable rises in groundwater may occur due to off-specification discharges, these events are not anticipated to occur with any regularity and, as noted in the FEIR and the Title 22 Engineering Report, will not impact groundwater quality or the functioning of existing septic systems on adjacent properties. While the applicant is pleased to present its "No Discharge" system to the Board it should be noted that "No Discharge" is not a prerequisite to achieving compliance with the applicable TMDLs, rules and regulations applicable to La Paz's project.

Regarding comment (iii) the Board provides no support for this contention. The discharge of off specification effluent would still be high quality effluent and would need to meet the rigorous standards for discharge that would be specified in La Paz's WDRs.

The Board did not require the Malibu Lumber Project to store off specification effluent. La Paz maintains that any off-specification effluent will be discharged in conformance with the water quality standards established by the Basin Plan and the TMDLs established for the region.

5. On July 23, 2009, DPH approved a report submitted by the applicant (intended to comply with title 22, California Code of Regulations), which contained a conceptual engineering design for the water reuse component for the proposed development. DPH conditioned the approval on, among other conditions, (a) submission of additional engineering details on the plumbing design, operation of the disinfection system, and development of recycling rules and requirements for tenants reusing the treated wastewater; and (b) approval by the Regional Board, as DPH's purview is limited to reuse of the treated wastewater in a manner protective of public health, and does not extend to protection of beneficial uses of state water resources.

5. It is a misstatement that the July 23, 2009 CADPH approval was only for a conceptual design. La Paz provided complete CADPH Title 22 Engineering Report documents and designs. The additional details CADPH requested are provided as part of final design. The Tentative Order does not take into account that the CADPH does not normally review projects until Construction Documents are prepared or facilities built. The CADPH stated that they have only reviewed one other project at this early stage of project development comparable to the La Paz project. Nothing in the Memorandum of Understanding between the State Water Resources Control Board and the CADPH requires any documentation to be provided, reviewed or approved beyond what La Paz has already provided.

10. On November 5, 2009, the Regional Board adopted Resolution No. R4-2009-007, amending the *Basin Plan* to prohibit discharges from onsite wastewater disposal systems in the Malibu Civic Center area, as defined by that *Basin Plan* amendment. The applicant's proposed discharge is within the boundaries of the prohibition, and is subject to the prohibition on new discharges of waste.

10. La Paz avers to Board staff's application of the Basin Plan Amendment ("BPA") to its project. §13245 of the CA Water Code States that no Basin Plan Amendment shall be effective and have the force of law until such time as the State Water Resources Control Board shall approve it; hence, as the State Water Resources Control Board has yet to approve the BPA the Regional Board may not proscribe discharges based thereupon. La Paz is not subject to the pending BPA.

14. With respect to the incomplete ROWD submitted by La Paz, the Regional Board has taken into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, and the need to prevent nuisance.

14. La Paz objects to the conclusory nature of the findings in paragraph 10 which are not sufficient to find a "nuisance" so as to justify prohibiting discharge. It appears that the Board is alleging that the findings in 13263 cannot be made; however, the Board provides no support for this contention whatsoever. The Board has recently approved

17,000 gallons per day of discharge at the adjacent Malibu Lumber site. La Paz's project is superior to the Malibu Lumber project because La Paz proposes zero discharge of effluent (vs. 17,000 gpd) and La Paz has much greater depth to groundwater beneath its proposed leach fields thus allowing for superior site conditions upon which to naturally remove any remaining contaminants. The Tentative Order does not explain why the Lumber Yard project which is directly adjacent to La Paz's site can be permitted and found to be consistent with all rules and regulations while La Paz's project is alleged to be inconsistent. La Paz contends that such findings cannot be made and that its project is being treated disparately without any scientific basis upon which to support such disparate treatment.

15. The Regional Board also has considered the provisions of Water Code section 13241 and the relevant water quality control plans that have been adopted.

15. La Paz does not concur with this finding. The finding is entirely conclusory and without any factual support. See applicant's responses to paragraphs 10 and 14 which are incorporated herein by reference.

16. La Paz has failed to provide a complete Report of Waste Discharge, the result of which is the inability of the Regional Board to prepare Waste Discharge Requirements that would allow the La Paz project to discharge wastewater.

16. La Paz does not concur with Board staff that its ROWD is incomplete and further objects that the Board does not currently have enough information to write a permit for discharge and recycling requirements.

17. Staff provided adequate response to the ROWD and modifications.

17. As explained above, Board staff did not comply with the Permit Streamlining Act provisions previously referenced or with the provisions of §13264(a)(2) of the Water Code.

18. As currently proposed, La Paz cannot discharge waste without impairing the water quality of the Malibu Valley Groundwater Basin, or creating a nuisance.

18. La Paz does not concur with this finding. The finding is entirely conclusory and without any factual support. See applicant's responses to paragraphs 10 and 14 which are incorporated herein by reference.

19. Further, there are existing and continuing violations of State and Regional Board water quality standards in the City of Malibu that were addressed by the Regional Board in its November 5, 2009 *Basin Plan* amendment adopting a prohibition of wastewater discharges from onsite wastewater disposal systems. That prohibition applies to the La Paz project.

19. La Paz does not concur with this finding. See applicant's responses to paragraphs 10 and 14 which are incorporated herein by reference.

20. La Paz failed to submit a complete and adequate ROWD, which demonstrates that the proposed recycling project would meet water quality objectives in the *Basin Plan* that are protective of beneficial uses designated by the Regional Board for groundwater and nearby surface waters.

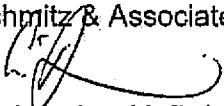
20. La Paz does not concur with this finding. The finding is entirely conclusory and without any factual support. See applicant's responses to paragraphs 10 and 14 which are incorporated herein by reference.

21. Issuance of waste discharge requirements for the La Paz project, as currently proposed, would not be protective of beneficial uses in the Malibu Valley Groundwater Basin and nearby surface waters.

21. La Paz does not concur with this finding. The finding is entirely conclusory and without any factual support. See applicant's responses to paragraphs 10 and 14 which are incorporated herein by reference.

This concludes our comments on the Board's Tentative Order. La Paz's legal counsel and Wastewater Engineer will be submitting other correspondence and materials under separate cover. Should you have any questions please do not hesitate to contact us.

Sincerely,  
Schmitz & Associates, Inc.



Christopher M. Deleau  
Special Projects Manager

## EXHIBIT 4



# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

January 15, 2008

Mr. Don Schmitz  
Schmitz and Associates, Inc.  
Malibu Headquarters  
29350 West Pacific Coast Highway, Suite 12  
Malibu, CA 90265

### **TECHNICAL REVIEW OF MALIBU LA PAZ DEVELOPMENT: REQUEST FOR WASTE DISCHARGE/WATER RECLAMATION REQUIREMENTS (FILE NO. 08-0101)**

Dear Mr. Schmitz,

The Regional Board staff have completed a review of your Report of Waste Discharge (ROWD) received on December 22, 2006 and have assessed the adequacy of the ROWD to support Waste Discharge Requirements (WDR)/ Water Reclamation Requirements (WRR) for the project. This review is not related to, or in response to, the Draft Environmental Impact Report which the City of Malibu (City) has prepared as lead agency for the Malibu La Paz Development Project (Project).

#### **Background**

The development would be located on 15.03 acres at 3700 La Paz Lane in the Civic Center in Malibu. Seven buildings are proposed with 112,508 square feet (ft<sup>2</sup>) of office, restaurant and commercial space and a 20,000 ft<sup>2</sup> City Hall with 609 subsurface parking spaces and waste flows greater than 20,000 gallons per day (gpd). The ROWD application is for two projects with the 'alternative' project lacking the City Hall building. The 'preferred project' with City Hall was assessed here. The site is about 1,000 feet west of Malibu Creek.

The December 22, 2006, Engineering Design by EnSitu describes a wastewater treatment system to dispose of a maximum of 29,620 gpd of waste. The collection and treatment system consists of sanitary sewer lines, a grease interceptor, a primary settling tank, an equalization tank, a High Strength FAST treatment using fixed media bacteria with odor control, chlorine tablet disinfection and average subsurface disposal of 7,500 gpd through groundwater discharge and/or irrigation.

The January 8, 2008, Engineering Design by Lombardo Associates, Inc. also uses these treatment components and adds a substantial water reuse system for the buildings, an 800,000 gallon irrigation and holding tank, groundwater wells, a potable supply delivery system for irrigation, and a wetlands. It relies on a computer model to provide ongoing assessment of evapotranspiration to direct disposal of wastewater.

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After receiving the ROWD, Staff notified you that the document was incomplete, and supplemental material was provided on March 2, 2007. Staff provided comments on Civic Center projects, including Malibu La Paz Development, to the City of Malibu staff on June 28, July 27, August 27, and September 27, 2007. Staff had a teleconference with both the City and you and your staff on October 29, 2007 on the project. Additional technical information was supplied in support of your ROWD on October 31, 2007. A response to the technical content of the Draft EIR was provided to you on November 5, 2007. Staff met again with Mr. Jim Thorsen and staff from the City on groundwater issues on November 20, 2007. An additional meeting was held with you at the Regional Board on January 8, 2008 at which time substantial technical revisions to the ROWD, sufficient to require the preparation of WRR, were provided. Meetings between your consultant and staff followed between that date and the preparation of this summary. Written correspondence documenting the details of our technical assessment of your ROWD is under review, but our findings were shared with your consultant, Mr. Pio Lombardo, on January 14, 2008.

### **Findings**

Staff has determined the ROWD is incomplete. The engineering material presented is sufficient to support the design concept, but not yet sufficient to ensure that the required regulatory approval can be received for each of the components.

### **Discussion**

The Project design concept is innovative for the City of Malibu area, and may result in very little and perhaps no discharges to shallow groundwater. However, it requires new regulatory review and support for aggressive water re-use within the facility which now includes waste reclamation of irrigation return waters and toilet flushing using Title 22 compliant wastewater discharge through landscape evapotranspiration.

The material presented before and during the review period suggests that it may be possible to obtain support for the design concepts with additional Discharger preparation. Specifically, (1) the California Department of Public Health (CDPH) must approve an Engineering Report for the Production, Distribution, and Use of Recycled Water (Title 22, California Code of Regulations) for the use of any recycled water. The Engineering Report and operational requirements must be approved in advance and provided to the Regional Board before your ROWD can be considered to be complete. (2) The design must be modified to meet the plumbing code assumptions for water use even if the WDR/WRR are for lower discharge volumes and based on your documented lower restaurant consumption. (3) Additional documentation must be provided demonstrating the successful operation of landscape irrigation in a heavily trafficked area such as the Civic Center to confirm the analytical evapotranspiration model presented. (4) Short term impacts on the groundwater elevation from unusual discharge or storm events have not been modeled, except with a steady state model. Confirmation that this use can coexist with City of Malibu commitments for disposal in Legacy Park is required, preferably with a transient groundwater model. And (5) additional odor control design may be necessary.

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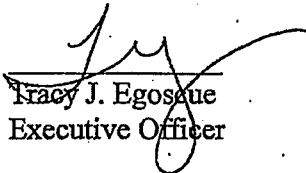
Mr. Don Schmitz  
Schmitz and Associates

- 3 -

January 15, 2008

If you have any questions or need clarification please contact Rod Nelson at (213) 620 2991 or Elizabeth Erickson at (213) 620 2264.

Sincerely,

  
Tracy J. Egosaue  
Executive Officer

CC.

Kurt Souza, California Department of Public Health  
Jim Thorson, City of Malibu, [jthorson@ci.malibu.ca.us](mailto:jthorson@ci.malibu.ca.us)  
Stacy Rice, City of Malibu, [srice@ci.malibu.ca.us](mailto:srice@ci.malibu.ca.us)  
Craig George, City of Malibu, [cgeorge@ci.malibu.ca.us](mailto:cgeorge@ci.malibu.ca.us)  
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Dzurec, Matt, Schmitz and Associates, [mdzurec@schmitzandassociates.net](mailto:mdzurec@schmitzandassociates.net)  
Pio Lombardo, [pio@LombardoAssociates.com](mailto:pio@LombardoAssociates.com)

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## EXHIBIT 5

# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

February 16, 2008

Mr. Don Schmitz  
Schmitz and Associates, Inc.  
Malibu Headquarters  
29350 West Pacific Coast Highway, Suite 12  
Malibu, CA 90265

Dear Mr. Schmitz:

### **NOTIFICATION OF INCOMPLETE APPLICATION FOR WASTE DISCHARGE REQUIREMENTS, MALIBU LA PAZ, 3700 LA PAZ LANE, MALIBU, CALIFORNIA (FILE NO. 08-0101)**

The Los Angeles Regional Water Quality Control Board (Regional Board) staff appreciated the meeting held in our offices for the Malibu La Paz Limited Partnership (Malibu La Paz) on January 8, 2008. This meeting allowed us to discuss the Report of Waste Discharge (ROWD) received on December 22, 2006. The ROWD describes a different engineering design than that proposed during our meeting. Further, we discussed possible conflicts between the waste water disposal plans for your projects and those of the adjacent City of Malibu's (City) Legacy Park. We also learned on February 13, 2008 that the upcoming Legacy Park EIR and project plan does not include the setting for a waste water treatment plant and the groundwater impact of this critical element of the City's Integrated Waste Water Management Plan has not been quantified. An additional letter describing deficiencies in the ROWD for Malibu La Paz was sent on January 15, 2007.

After our discussion, and review of the ROWD and additional material submitted, we have determined that your application for Waste Discharge Requirements (WDRs) remains incomplete. We propose milestones below to facilitate our work in good faith, finalize your ROWD and meet your proposed schedule while attaining the goals shared by the Regional Board and the City for construction at Malibu La Paz, Legacy Park and a Civic Center waste water treatment plant.

#### **Malibu La Paz**

Your ROWD must be modified to provide hydrogeological and engineering evidence that the discharge can co-exist with the discharge from the waste treatment plant in the Civic Center, and Legacy Park and Malibu Lumber discharges without deleterious effects. Further, your project includes temporary discharges which may not be sufficiently supported by the City in their proposed steady-state groundwater model. We appreciate your understanding that Malibu La Paz's ultimate permit to discharge will be influenced by the results of that groundwater study. The

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Mr. Schmitz  
Malibu La Paz

- 2 -

February 15, 2008

following items are necessary to complete your ROWD and elaborate on the comments in our January 15, 2008 letter.

1. A title 22 Engineering Report with the California Department of Public Health (CDPH) must be approved before the ROWD will be finalized.
2. The design must be modified to meet the plumbing code assumptions for water use even if the WDR/WRR is for lower discharge volumes
3. Documentation on the operation of existing irrigation systems must be provided to confirm the ET estimates. While your engineering design is based on no-net discharge, discharge does occur and your engineering model which predicts that discharge must be supported with additional information. Possible reductions in the evapotranspiration should be reconciled with the vegetation the Coastal Commission has already accepted at Rancho Malibu or is likely to accept, and examples of existing operating projects like that you propose.
4. The waste discharge from the project must be accommodated in the sub-surface after consideration of the discharges from Malibu Lumber, Legacy Park WWTP, and Legacy Park storm water disposal in the worst case. Given that the DPH definition of treatment system failure (i.e. not meeting water reuse standards) is that two months of storage are not provided or an alternate disposal option is not identified, critical conditions would include two months of storage for treatment failure. In addition, critical conditions expected to be represented in the ongoing model being produced by the City of Malibu include high storm water flow discharge from Malibu La Paz to Legacy Park, treatment failure at Malibu La Paz with associated groundwater discharge and low ET for the duration of a predicted or measured 100 year storm event.
5. You must specify the odor control features.

#### **Legacy Park Coordination**

Regional Board approval must be received at several stages before the subject WDR can be approved. We include a tentative schedule listing these milestones in the preparation of the ROWD for your project, the construction of Legacy Park and a Civic Center waste water treatment system. Specifically, implementation of the waste water treatment plant design must proceed at a pace such that the Regional Board can be assured that the proposed project will not prevent the operation of a proposed waste water treatment plant.

On February 13, 2008 staff learned that the existing EIR plan for Legacy Park does not include a waste water treatment plant nor does it protect assimilative capacity in the Civic Center for effluent disposal should a waste treatment plant be located in the Park. Even if the effluent from the future waste water treatment plant will be transported outside the Civic Center and discharged where the waste was generated without groundwater impact at Legacy Park, the site and groundwater impact for the treatment plant need to be identified for inclusion in the groundwater study and assessment of the Malibu La Paz ROWD.

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While we recognize the City's continuing commitment to minimize discharge from failing septic systems in the Civic Center and at the Malibu Colony through storm water management and a waste water treatment plant, additional collaboration is necessary during the permitting process to support development projects like Malibu La Paz. Board staff seeks clarification on possible conflicts between the City's Final Integrated Water Quality Management (IWQMP) Feasibility Study (4/28/2005), the forthcoming Legacy Park DEIR and the Malibu La Paz ROWD. We applaud the City Council's actions in initiating a groundwater modeling effort to identify the assimilative capacity for future groundwater disposal. The location of the waste water treatment plant and its final design including discharge location and volume are considered to be an essential part of the IWQMP to be included in the groundwater study.

Table 1: Milestones for Malibu Civic Center Waste Storm Water Treatment and Developments

Date	City of Malibu	RWQCB	Waste Treatment (WWTP)	Legacy Park	Malibu Lumber	Malibu La Paz
Jan 2008	Funding RFP for GW model	Incomplete ROWD letter for Lumber, La Paz		Internal review of EIR	Revised Design to City	Begin DPH Title 22 rpt
Feb	Approve La Paz EIR, Approve modeler, Begin modeling	Common on Park Legacy Park Review modeling RFP	Identify WWTP discharge volumes and location for GW study	Release EIR		
Mar	Approve Legacy Park EIR		Begin DEIR for WWTP		Modify ROWD	
Apr	First results model	Review and finalize GW model for La Paz and Legacy Park ROWD and begin WDR	Circulate DEIR for WWTP, Begin RFP for WWTP construction	Modify Design to include model results and prevent conflict with Lumber, La Paz and WWTP	Modify ROWD, Design to prevent conflict with Legacy Park/ La Paz/WWTP and model results	Modify ROWD, Design to prevent conflict with Legacy Park/ WWTP/ Lumber/ model
June 2008	Final results GW modeling/ Approve EIR/RFP WWTP	Review final results modeling, Review La Paz ROWD	Review WWTP contractors	Begin Phase 1 construction		Receive DHS title 22 approval, Submit ROWD
Aug	Select WWTP contractor	Final Malibu Lumber WDR, Draft complete ROWD	Begin Design WWTP	Begin Title 22 Rpt for DPH	Modify WDR	
Sept		Final La Paz ROWD				
Oct		Final Malibu Lumber WDR				
Dec		Board begin Malibu Lumber WDR		DPH approval Title 22 rpt	Begin building w/ permitting	
Jan 2009		Begin preparation of La Paz WDR/WRRs		Phase 2 construction		

Mr. Schmitz  
Malibu La Paz

- 4 -

February 15, 2008

Date	City of Malibu	RWQCB	Waste Treatment (WWTP)	Legacy Park	Malibu Lumber	Malibu La Paz
Mar		La Paz WDR/WRR draft final	Begin WWTP ROWD			Chg. WDR/WRR
Apr		La Paz WDR/WRR Final				
July 2009		State Board due to issue Gen Irrigation Permit			Open	
Aug		Board meet to issue WDR/WRR	Submit WWTP ROWD			Begin building w/ permitting
Jan 2010		Finalize WWTP ROWD and begin WDR				
July 2010		Board meet to issue WWTP WDR				Open


We look forward to your comments and appreciate your assistance in providing the necessary information in a timely fashion. If you have any questions, please call Elizabeth Erickson at (213) 620-2264.

Sincerely,

  
Tracy J. Eggen  
Executive Officer

cc: Mr. Gordon Innes, Division of Water Quality, State Water Resources Control Board  
Mr. Craig George, Mr. Granville Bowman, Mr. Andrew Sheldon, Mr. Jim Thorsen, City of Malibu  
Mr. John J. O'Brien, Malibu Lumber LLC  
Mr. John Yaroslaski, Ensite Engineering, Inc.  
Mr. Pio Lombardo, Lombardo Engineering, Inc.  
Mr. William C. Stratten, County of Ventura, Environmental Health Division  
Carl Sjöberg, Department of Public Works, Environmental Program Division, County of Los Angeles  
Richard Wagener, Department of Health Services, County of Los Angeles  
Chl Diep, CA Dept. of Public Health Drinking Water Program

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## EXHIBIT 6



MARK B HORTON, MD, MSPH  
Director

State of California—Health and Human Services Agency  
California Department of Public Health



ARNOLD SCHWARZENEGGER  
Governor

May 30, 2008

Ms. Tracy Egoscue, Executive Officer  
California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**SYSTEM NO. 1990020 – MALIBU LA PAZ DEVELOPMENT WASTEWATER  
MANAGEMENT SYSTEM MASTER PLAN**

Dear Ms. Egoscue:

We have reviewed the Malibu La Paz Development Wastewater Management System Master Plan (Plan), dated April 1, 2008, describing the wastewater management system for the La Paz development in the City of Malibu. The Plan gives a general idea of the wastewater treatment system and the type of wastewater reuse that will be proposed at the site. The Department finds that the Plan is a good first step in the development of the Title 22 Engineering Report. The treatment system proposed in the Plan is appropriate. In addition, the proposed reuse is appropriate for the level of treatment provided by the treatment system. However, more detail is needed to make a final determination on the treatment system and reuse at this site. In particular, the proponents should produce a thorough Title 22 Engineering Report following the Department's 2001 guidelines (attached).

The Department is available to work with stakeholders on the development of the Title 22 Engineering Report. If you have questions regarding this letter, please contact Mr. Chi Diep at (213) 580-5727 or myself at (213) 580-3127.

Sincerely,

Stefan Cajina, P.E.  
District Engineer  
Central District

Ms. Tracy Egoscue  
May 30, 2008  
Page 2

Enclosure(1)

cc: Elizabeth Erickson  
California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4th Street, Suite 200  
Los Angeles, CA 90013 CA Regional

Chris Deleau  
La Paz Ranch, LLC  
c/o Schmitz & Associates, Inc.  
5234 Chesebro Rd, Suite 200  
Agoura Hills, CA 91301

Andrew Sheldon  
Environmental Health Administrator  
City of Malibu  
23815 Stuart Ranch Road  
Malibu, California 90265

Pio Lombardo  
Lombardo Associates, Inc.  
49 Edge Hill Road  
Newton, MA 02467

Paul Wong  
Cross-Connections & Water Pollution Control Program  
5050 Commerce Drive, Rm. 116  
Baldwin Park, CA 91706-1423



## EXHIBIT 7

## Andrew Sheldon

---

**From:** Elizabeth Erickson [eerickson@waterboards.ca.gov]  
**Sent:** Friday, May 02, 2008 10:18 AM  
**To:** Chi Diep  
**Cc:** RBeggs@BrwnCald.com; Andrew Sheldon; Craig George; John Yaroslaski; Meg Moran; Ric Vardel; bthornton@tdgcorp.org; Rodney Nelson; Toni Callaway; Wendy Phillips  
**Subject:** Upcoming Malibu Projects  
**Attachments:** Elizabeth Erickson.vcf



Elizabeth  
rickson.vcf (330 B)

Hello Chi,

Thank you for your ongoing general evaluation of the Malibu La Paz project. We expect it to be considered for CEQA by the City of Malibu on May 14. If it is certified, we will use your evaluation and work to finalize their application before beginning permitting. That would give them at least 140 days to get your final approval on their future Title 22 Engineering Report.

Also, we understand that Malibu Whole Foods, an adjacent project, may be moving forward with a groundwater injection disposal option at 90'. The latest news on a test well they constructed is that the deep specific capacity was similar to the surface 20', but that pumping at the deeper level did not depress the surface groundwater table. Perhaps the test did not sufficiently stress the aquifer or the aquitard between the two layers is less permeable than previously modeled. There may be untapped disposal capacity at the deeper levels. My recollection of our options for this type of disposal would be (1) EPA permitting of a class 5 injection well or (2) with you and a City of Malibu designation that the deeper level is an emergency drinking water source which should be recharged with reclaimed to prevent further seawater intrusion.

Two new projects. Both Malibu Lumber and Malibu Windsail projects have decided to apply for recycle water use inside the structure, including toilet flushing. Malibu Lumber has a very rapid time line and would also like to apply for irrigation disposal.

Would you be able to give the Malibu Lumber engineering design a general review upon receipt of their design? If the concept is acceptable, we could proceed like Santa Paula, with you reviewing their full Title 22 engineering report in advance of their use of recycled water internally or for irrigation, but after the permit was granted.

I would appreciate the same treatment for Malibu Windsail, but their project does not have the same urgency.

Public Health. Thanks for your very helpful comments about Title 22 membrane use. Both of the new projects have chosen to use membranes to discharge tertiary treated disinfected recycled water. However, neither will be seeking your approval for that discharge which we expect you would designate subsurface disposal and not re-use. I will keep you apprised of the success of these operations. Our shared hope is that there will continue to be no impact to public health and additional DPH review of the disposal system will not be necessary.

Toilet Flushing. I understand that we do not have any permits which include this re-use in our Region. Do you have a contact at another Regional Board so I may make sure we have everything correct to match with your requirements.

State Recycled Policy. In case you haven't heard the latest, here's a summary... A stakeholder group (including Heal the Bay and Association of California Water Agencies) was identified to define a recycled water policy superior to that prepared by staff for presentation to the State Board in 90 days (June 16, 2008). In the meantime, Jon Bishop's group will proceed with preparation of general permits for irrigation (required by July

2009) and for disposal of recycled water.

The schedule for this activity will be as follows -90 days (mid June), the stakeholder group will present bullet points of their proposed new policy.

-2 weeks of state staff review

-July hearing, the state board will direct staff to move ahead on new policy or return to answering the comments on the already proposed policy.

If proceed with new policy

-30 days for state staff to draft policy

-45 days public comment

-30 days for state staff to respond to comments

-15 days for Board and stakeholder comments on staff summary Total about additional 120 days for Board to vote on results.

New stakeholder group points of agreement:

proposed policy not adequate,

use of recycled water is necessary in a way which protects all beneficial uses, recycled water use should assist in meeting California goal of 1 million acre feet of new water.

Best to you!

## EXHIBIT 8



# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

June 11, 2008

Mr. Don Schmitz  
Schmitz and Associates, Inc.  
29350 West Pacific Coast Highway, Suite 12  
Malibu, CA 90265

Dear Mr. Schmitz:

### STATUS OF REPORT OF WASTE DISCHARGE, MALIBU LA PAZ, 3700 LA PAZ LANE, MALIBU, CALIFORNIA (FILE NO. 08-0101)

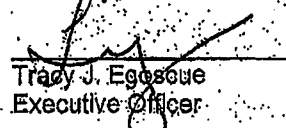
The Los Angeles Regional Water Quality Control Board (Regional Board) staff acknowledges your inquiry on the status of review for your project and your request for concept approval of your technical design. The Report of Waste Discharge, received on December 22, 2006, is under review. Conceptual approval and preparation of the Waste Discharge Requirements can be considered once CEQA is approved by the City of Malibu and the Report of Waste Discharge (ROWD) is complete.

At our meeting with you on January 8, 2008, we found that your ROWD did not include a current engineering design for your construction. This information was provided during subsequent meetings on January 8, 9, and 10, 2008. After evaluating the new material, we described the information which was still missing in a letter on January 15, 2008 (attached) and detailed email comments between January 9 and March 22, 2008. On February 26, 2008, we met with the California Department of Public Health to discuss your case and your request for an early review. At our request they agreed to give your project an early conceptual review. On April 3, 2008, we received a copy of your submittal to the California Department of Public Health, which they are now reviewing.

We will begin our review of your ROWD when La Paz's CEQA is approved by the City.

If you have any questions, please call Project Manager, Ms. Elizabeth Erickson at (213) 620-2264 or Unit Chief, Dr. Rebecca Chou at (213) 620 6156.

Sincerely,

  
Tracy J. Egoscue  
Executive Officer

Attachment  
Cc with attachment:

Mr. Craig George, Mr. Granville Bowman, Mr. Andrew Sheldon, Mr. Jim Thorsen, City of Malibu  
Mr. John J. O'Brien, Malibu Lumber LLC  
Mr. John Yaroslaski, Ensite Engineering, Inc.  
Mr. Pio Lombardo, Lombardo Engineering, Inc.  
Mr. Chi Diep, CA Public Health Drinking Water Program

**California Environmental Protection Agency**



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## EXHIBIT 9

**Subject:** FW: LA PAZ WDR

**Attachments:** 2008 06.11 Ltr from RWQCB.pdf; 2.15.08 RWQCB 2.15.08 WDR incomplection ltr for La Paz and all civic ctr proprerties.pdf; 01-15-2008 RWQCB ROWD Review.pdf; 11.13.08 La Paz NOD for .15 and .20 FAR Projects.pdf

---

**From:** Chris Deleau

**Sent:** Tuesday, December 02, 2008 10:12 AM

**To:** 'Elizabeth Erickson'

**Cc:** Don Schmitz; Donna Shen; Sharon Martin; Julie Crooks; Matt Dzurec; 'Pio Lombardo'

**Subject:** RE: LA PAZ WDR

See attachments.

Thanks,

Chris Deleau | Special Projects Manager | Schmitz & Associates, Inc.  
5234 Chesebro Rd, Suite 200, Agoura Hills, CA 91301  
V: (818)338-3636 | F: (818) 338-3423 | E: cdeleau@schmitzandassociates.net

CONFIDENTIALITY NOTE: This and any accompanying pages contain information from the Offices of Schmitz & Associates, Inc. which may be confidential and/or legally privileged. The information is intended to be for the sole use of the individual or entity named above. Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient please contact the sender and destroy all copies of the communication.

---

**From:** Chris Deleau

**Sent:** Tuesday, December 02, 2008 9:54 AM

**To:** 'Elizabeth Erickson'

**Cc:** Don Schmitz; Donna Shen; Sharon Martin; Julie Crooks; Matt Dzurec; 'Pio Lombardo'

**Subject:** LA PAZ WDR

Elizabeth, it was good seeing you at the last Board hearing. Hope all is well.

Please find attached hereto a copy of the La Paz Notices of Decision. Per your last correspondence and incomplection letter dated June 11, 2008 (incorporating previous staff review comments from January of 2008), La Paz has submitted all requested materials for application completion. Certification of the EIR by the City of Malibu was the last item required for application completion.

If you require any additional materials please let us know.

Best,

Chris Deleau | Special Projects Manager | Schmitz & Associates, Inc.  
5234 Chesebro Rd, Suite 200, Agoura Hills, CA 91301  
V: (818)338-3636 | F: (818) 338-3423 | E: cdeleau@schmitzandassociates.net

7/23/2009



## Notice of Determination

City of Malibu  
Planning Division

To: ☒ Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

From: City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265

☒ County Clerk  
County of Los Angeles  
P.O. Box 1024  
Norwalk, CA 90651-1024

**Subject:** Filing Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

**Project Title:** La Paz Ranch – Development Agreement (DA) .20 Project – construction of 112,058 square feet (sf) of commercial office and retail uses and a 20,000 sf City Hall complex.

2003011131  
State Clearinghouse Number

City of Malibu  
Stefanie Edmondson  
Lead Agency

(310) 456-2489 ext. 233  
Telephone / Extension

**Name of Person or Agency Carrying Out Project:** Schmitz and Associates, Inc. (Chris Deleau) on behalf of La Paz Ranch LLC

**Project Location:** 3700 La Paz Lane, Malibu, CA (Parcel A – Assessor Parcel Number 4458-022-023 and Parcel B – Assessor Parcel Number 4458-022-024)

**Project Description:** The DA .20 Project is for the construction of 112,058 sf of commercial office and retail uses and a 20,000 sf City Hall complex. The increase in floor area provided to the developer as part of the development agreement is 12,941 sf while 20,000 sf is allocated to the City for a future City Hall complex. The net increase of commercial floor area directly benefiting the applicant is 12,941 sf or approximately 10 percent for the public benefit.

The public benefit includes: 1) 2.3 acres in the Civic Center Area conveyed to the City for the purpose of a City Hall or municipal use; 2) \$500,000 contribution to the City Hall or municipal use infrastructure construction fund; 3) a pedestrian and bike path from the City Hall throughout the project connecting to Civic Center Way; 4) dedication of trail segment fronting along Civic Center Way; and 5) conceptual architectural plans for the proposed City Hall.

The entitlements associated with the DA .20 Project include: 1) Local Coastal Program (LCP) Local Implementation Plan (LIP) Text Amendment (LCPA No. 06-003) amending Section 3.4 (Zoning Designations and Permitted Uses – Overlay Zones) to include Subsection 3.4.3 (Town Center Overlay) and associated development standards in conjunction with the associated Development Agreement between the City and the project Applicant; 2) Coastal Development Permit No. 05-107 for construction of 112,058 sf of commercial floor area, including retail, restaurant and office uses and a 20,000 sf City Hall complex; 3) Lot Line Adjustment No. 05-004 between two adjacent parcels and the subsequent conveyance of a portion of one parcel (2.3 acres) to the City; and 4) Conditional Use Permit No. 05-004 for up to 10,000 square feet of restaurant use in Buildings 5, 6 and 7 on Parcel A. An Environmental Impact Report (EIR No. 06-001) was prepared and certified in accordance with California Environmental Quality Act (CEQA) and the CEQA Guidelines.

This is to advise that the City of Malibu has approved the above described project on November 10, 2008, and has made the following determinations regarding this project:

1. The project ☒ will ☐ will not have a significant effect on the environment.
2. ☒ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA; ☐ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures ☒ were ☐ were not made a condition of the approval of the project.
4. A statement of Overriding Considerations ☒ was ☐ was not adopted for this project.
5. Findings ☒ were ☐ were not made pursuant to the provisions of CEQA.





## Notice of Determination

City of Malibu  
Planning Division

To: ☒ Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

From: City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265

☒ County Clerk  
County of Los Angeles  
P.O. Box 1024  
Norwalk, CA 90651-1024

**Subject:** Filing Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

**Project Title:** La Paz Ranch - 15 Project - A proposal for the construction of 99,177 square feet of commercial office and retail uses.

2003011131  
State Clearinghouse Number

City of Malibu  
Stefanie Edmondson  
Lead Agency

(310) 456-2489 ext. 233  
Telephone / Extension

**Name of Person or Agency Carrying Out Project:** Schmitz and Associates, Inc. (Chris Deleau) on behalf of La Paz Ranch LLC

**Project Location:** 3700 La Paz Lane, Malibu, CA (Parcel A - Assessor Parcel Number 4458-022-023 and Parcel B - Assessor Parcel Number 4458-022-024)

**Project Description:** The 15 Project is for the construction of 99,177 square feet of commercial office and retail uses on commercially zoned property in the Civic Center Area. The entitlements associated include: 1) Coastal Development Permit No. 05-106 for construction of 99,177 square footage of commercial development; 2) Lot Line Adjustment No. 05-003 to adjust property boundaries between the two parcels A and B; 3) site plan review requests for construction in excess of 18 feet in height for the development on both parcels (SPR Nos. 07-126 and 07-127); 4) SPRs for remedial grading on both parcels (SPR Nos. 07-148 and 07-149); 5) minor modifications for front yard setbacks on both parcels (MM Nos. 07-044 and 045); 6) Conditional Use Permit (CUP No. 07-018) for the integrated onsite wastewater treatment system to cross property lines on parcels A and B; 7) CUP No. 07-019 for restaurant use on Parcel A; 8) CUP No. 08-013 for new construction over 500 hundred square feet in the Community Commercial zone; and 9) a joint use and common parking facilities agreement. An Environmental Impact Report (EIR No. 06-001) was prepared and certified in accordance with California Environmental Quality Act (CEQA) and the CEQA Guidelines.

This is to advise that the City of Malibu has approved the above described project on November 10, 2008, and has made the following determinations regarding this project:

1. The project ☒ will ☐ will not have a significant effect on the environment.
2. ☒ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. ☐ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures ☒ were ☐ were not made a condition of the approval of the project.
4. A statement of Overriding Considerations ☒ was ☐ was not adopted for this project.
5. Findings ☒ were ☐ were not made pursuant to the provisions of CEQA.

This is to certify that the Final Environmental Impact Report with comments and responses and the record of project approval is available to the General Public at: City of Malibu City Hall, 23815 Stuart Ranch Road, Malibu, California, 90265

Stefanie Edmondson, Principal Planner  
Date: November 13, 2008



# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 376-6600 FAX (213) 376-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

June 11, 2008

Mr. Don Schmitz  
Schmitz and Associates, Inc.  
29350 West Pacific Coast Highway, Suite 12  
Malibu, CA 90265

Dear Mr. Schmitz:

### STATUS OF REPORT OF WASTE DISCHARGE, MALIBU LA PAZ, 3700 LA PAZ LANE, MALIBU, CALIFORNIA (FILE NO. 08-0101)

The Los Angeles Regional Water Quality Control Board (Regional Board) staff acknowledges your inquiry on the status of review for your project and your request for concept approval of your technical design. The Report of Waste Discharge, received on December 22, 2006, is under review. Conceptual approval and preparation of the Waste Discharge Requirements can be considered once CEQA is approved by the City of Malibu and the Report of Waste Discharge (ROWD) is complete.

At our meeting with you on January 8, 2008, we found that your ROWD did not include a current engineering design for your construction. This information was provided during subsequent meetings on January 8, 9, and 10, 2008. After evaluating the new material, we described the information which was still missing in a letter on January 15, 2008 (attached) and detailed email comments between January 9 and March 22, 2008. On February 25, 2008, we met with the California Department of Public Health to discuss your case and your request for an early review. At our request they agreed to give your project an early conceptual review. On April 3, 2008, we received a copy of your submittal to the California Department of Public Health, which they are now reviewing.

We will begin our review of your ROWD when La Paz's CEQA is approved by the City.

If you have any questions, please call Project Manager, Ms. Elizabeth Erickson at (213) 620-2264 or Unit Chief, Dr. Rebecca Chou at (213) 620 6166.

Sincerely,

  
Tracy J. Egoscue  
Executive Officer

Attachment  
Cc with attachment:

Mr. Craig George, Mr. Granville Bowman, Mr. Andrew Sheldon, Mr. Jim Thorsen, City of Malibu  
Mr. John J. O'Brien, Malibu Lumber LLC  
Mr. John Yaroslaski, Ensite Engineering, Inc.  
Mr. Pio Lombardo, Lombardo Engineering, Inc.  
Mr. Chi Diep, CA Public Health Drinking Water Program

**California Environmental Protection Agency**



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# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

February 15, 2008

Mr. Don Schmitz  
Schmitz and Associates, Inc.  
Malibu Headquarters  
29350 West Pacific Coast Highway, Suite 12  
Malibu, CA 90265

Dear Mr. Schmitz:

### NOTIFICATION OF INCOMPLETE APPLICATION FOR WASTE DISCHARGE REQUIREMENTS, MALIBU LA PAZ, 3700 LA PAZ LANE, MALIBU, CALIFORNIA (FILE NO. 08-0101)

The Los Angeles Regional Water Quality Control Board (Regional Board) staff appreciated the meeting held in our offices for the Malibu La Paz Limited Partnership (Malibu La Paz) on January 8, 2008. This meeting allowed us to discuss the Report of Waste Discharge (ROWD) received on December 22, 2006. The ROWD describes a different engineering design than that proposed during our meeting. Further, we discussed possible conflicts between the waste water disposal plans for your projects and those of the adjacent City of Malibu's (City) Legacy Park. We also learned on February 13, 2008 that the upcoming Legacy Park EIR and project plan does not include the setting for a waste water treatment plant and the groundwater impact of this critical element of the City's Integrated Waste Water Management Plan has not been quantified. An additional letter describing deficiencies in the ROWD for Malibu La Paz was sent on January 15, 2007.

After our discussion, and review of the ROWD and additional material submitted, we have determined that your application for Waste Discharge Requirements (WDRs) remains incomplete. We propose milestones below to facilitate our work in good faith, finalize your ROWD and meet your proposed schedule while attaining the goals shared by the Regional Board and the City for construction at Malibu La Paz, Legacy Park and a Civic Center waste water treatment plant.

#### Malibu La Paz

Your ROWD must be modified to provide hydrogeological and engineering evidence that the discharge can co-exist with the discharge from the waste treatment plant in the Civic Center and Legacy Park and Malibu Lumber discharges without deleterious effects. Further, your project includes temporary discharges which may not be sufficiently supported by the City in their proposed steady-state groundwater model. We appreciate your understanding that Malibu La Paz's ultimate permit to discharge will be influenced by the results of that groundwater study. The

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following items are necessary to complete your ROWD and elaborate on the comments in our January 15, 2008 letter.

1. A title 22 Engineering Report with the California Department of Public Health (CDPH) must be approved before the ROWD will be finalized.
2. The design must be modified to meet the plumbing code assumptions for water use even if the WDR/WRR is for lower discharge volumes
3. Documentation on the operation of existing irrigation systems must be provided to confirm the ET estimates. While your engineering design is based on no-net discharge, discharge does occur and your engineering model which predicts that discharge must be supported with additional information. Possible reductions in the evapotranspiration should be reconciled with the vegetation the Coastal Commission has already accepted at Rancho Malibu or is likely to accept, and examples of existing operating projects like that you propose.
4. The waste discharge from the project must be accommodated in the sub-surface after consideration of the discharges from Malibu Lumber, Legacy Park WWTP, and Legacy Park storm water disposal in the worst case. Given that the DPH definition of treatment system failure (i.e. not meeting water reuse standards) is that two months of storage are not provided or an alternate disposal option is not identified, critical conditions would include two months of storage for treatment failure. In addition, critical conditions expected to be represented in the ongoing model being produced by the City of Malibu include high storm water flow discharge from Malibu La Paz to Legacy Park, treatment failure at Malibu La Paz with associated groundwater discharge and low ET for the duration of a predicted or measured 100 year storm event.
5. You must specify the odor control features.

#### **Legacy Park Coordination**

Regional Board approval must be received at several stages before the subject WDR can be approved. We include a tentative schedule listing these milestones in the preparation of the ROWD for your project, the construction of Legacy Park and a Civic Center waste water treatment system. Specifically, implementation of the waste water treatment plant design must proceed at a pace such that the Regional Board can be assured that the proposed project will not prevent the operation of a proposed waste water treatment plant.

On February 13, 2008 staff learned that the existing EIR plan for Legacy Park does not include a waste water treatment plant nor does it protect assimilative capacity in the Civic Center for effluent disposal should a waste treatment plant be located in the Park. Even if the effluent from the future waste water treatment plant will be transported outside the Civic Center and discharged where the waste was generated without groundwater impact at Legacy Park, the site and groundwater impact for the treatment plant need to be identified for inclusion in the groundwater study and assessment of the Malibu La Paz ROWD.

While we recognize the City's continuing commitment to minimize discharge from failing septic systems in the Civic Center and at the Malibu Colony through storm water management and a waste water treatment plant, additional collaboration is necessary during the permitting process to support development projects like Malibu La Paz. Board staff seeks clarification on possible conflicts between the City's Final Integrated Water Quality Management (IWQMP) Feasibility Study (4/28/2005), the forthcoming Legacy Park DEIR and the Malibu La Paz ROWD. We applaud the City Council's actions in initiating a groundwater modeling effort to identify the assimilative capacity for future groundwater disposal. The location of the waste water treatment plant and its final design including discharge location and volume are considered to be an essential part of the IWQMP to be included in the groundwater study.

Table 1: Milestones for Malibu Civic Center Waste-Storm Water Treatment and Developments

Date	City of Malibu	RWQCB	Waste Treatment (WWTP)	Legacy Park	Malibu Lumber	Malibu La Paz
Jan. 2008	Funding RFP for GW model	Incomplete ROWD letter for Lumber, La Paz		Internal review of EIR	Revised Design to City	Begin DPH Title 22 rpt
Feb	Approve La Paz EIR, Approve modeler, Begin modeling	Comment on EIR for Legacy Park, Review modeling RFP	Identify WWTP discharge volumes and location for GW study	Release EIR		
Mar	Approve Legacy Park EIR		Begin DEIR for WWTP		Modify ROWD	
Apr	First results model	Review preliminary GW model, Finalize Malibu Lumber ROWD and WDR	Circulate DEIR for WWTP, Begin RFP for WWTP construction	Modify Design to include model results and prevent conflict with Lumber, La Paz and WWTP	Modify ROWD, Design to prevent conflict with Legacy Park/ La Paz/WWTP and model results	Modify ROWD, Design to prevent conflict with Legacy Park/ WWTP/ Lumber/ model
June 2008	Final results GW modeling/ Approve EIR/RFP WWTP	Review final results modeling, Review La Paz ROWD	Review WWTP contractors	Begin Phase 1 construction		Receive DHS title 22 approval, Submit ROWD
Aug	Select WWTP contractor	Final Malibu Lumber WDR, Draft completed	Begin Design WWTP	Begin Title 22 Rpt for DPH	Modify WDR	
Sept		Final La Paz ROWD				
Oct		Final Malibu Lumber WDR				
Dec		Board hear Malibu Lumber WDR		DPH approval Title 22 rpt	Begin building w/ permitting	
Jan 2009		Begin preparation of La Paz WDR/WRRs		Phase 2 construction		

Mr. Schmitz  
Malibu La Paz

- 4 -

February 13, 2008

Date	City of Malibu	RWQCB	Waste Treatment (WWTP)	Legacy Park	Malibu Lumber	Malibu La Paz
Mar		La Paz WDR/WRR draft final	Begin WWTP ROWD			Chg. WDR/WRR
Apr		La Paz WDR/WRR Final				
July 2009		State Board due to issue Gen Irrigation Permit			Open	
Aug		Board at La Paz WDR/WRR	Submit WWTP ROWD			Begin building w/ permitting
Jan 2010		Finalize WWTP ROWD and begin WDR				
July 2010		Board at US Dept WWTP WDR				Open

We look forward to your comments and appreciate your assistance in providing the necessary information in a timely fashion. If you have any questions, please call Elizabeth Erickson at (213) 620-2264.

Sincerely,

  
Tracy J. Egorsoue  
Executive Officer

cc: Mr. Gordon Innes, Division of Water Quality, State Water Resources Control Board  
Mr. Craig George, Mr. Granville Bowman, Mr. Andrew Sheldon, Mr. Jim Thorsen, City of Malibu  
Mr. John J. O'Brien, Malibu Lumber LLC  
Mr. John Yaroslaski, Ensitu Engineering, Inc.  
Mr. Pio Lombardo, Lombardo Engineering, Inc.  
Mr. William C. Stratton, County of Ventura, Environmental Health Division  
Carl Sjoborg, Department of Public Works, Environmental Program Division, County of Los Angeles  
Richard Wagener, Department of Health Services, County of Los Angeles  
Chl Dep, CA Dept. of Public Health Drinking Water Program

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# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone: (213) 576-6600 FAX (213) 576-6640 • Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

February 15, 2008

Mr. John J. O'Brien  
Malibu Lumber LLC  
C/o Weintraub Financial Services Inc.  
P.O. Box 6528  
Malibu, CA 90264

Dear Mr. O'Brien:

### NOTIFICATION OF INCOMPLETE APPLICATION FOR WASTE DISCHARGE REQUIREMENTS, MALIBU LUMBER, 23641 PACIFIC COAST HIGHWAY, (FILE NO. 08-019), MALIBU, CALIFORNIA

The Los Angeles Regional Water Quality Control Board (Regional Board) staff appreciated the meeting held in our offices for the Malibu Lumber Limited Partnership (Malibu Lumber) on November 30, 2007. This meeting allowed us discuss the Report of Waste Discharge (ROWD) received on May 7, 2007. The ROWD describes a different engineering design than that proposed during our meeting. Further, we discussed possible conflicts between the waste water disposal plans for your project and those of the adjacent City of Malibu's (City) Legacy Park. We also learned on February 13, 2008 that the upcoming Legacy Park project plan does not include the location for a waste water treatment plant and the groundwater impact of this critical element of the City's Integrated Waste Water Management Plan has not been quantified.

After our discussion, and review of the ROWD and additional material submitted, we have determined that your application for Waste Discharge Requirements (WDR) is incomplete. We propose milestones to facilitate our work in good faith, finalize your ROWD and meet your proposed schedule while attaining the goals shared by the Regional Board and the City for construction at Malibu Lumber, Legacy Park and a Civic Center waste water treatment plant.

#### Malibu Lumber

Your ROWD must be modified to provide hydrogeological and engineering evidence that your discharge can coexist with the discharge from Legacy Park, a waste water treatment plant in the Civic Center and discharge from Malibu La Paz without deleterious effects. We appreciate your understanding that Malibu Lumber's ultimate permit to discharge will be influenced by the results of the groundwater study now under preparation by the City of Malibu. The following items are necessary to complete your ROWD:

1. The final document approved by the City Council members requesting the General Funds money for the model.

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February 15, 2008

2. Verification that funds have been committed to the project.
3. Regional Board staff review of the Request For Proposal (RFP) to ensure the Hydrology Model to make sure it contains sufficient detail to complete the study to our requirements.
4. Regional Board staff review of the model after initial calibration and prior to sensitivity analysis to ensure that the model can quantify the impact of transient effects such as a single storm event when irrigation is not feasible and groundwater levels are already high.
5. We have consulted with the California Department of Public Health and are discussing the necessity for an Engineering Report for Disposal of Title 22 water for the proposed sub-surface disposal in Legacy Park given that (a) the water table may become elevated during storm periods or times with low evapotranspiration (ET) and (b) ponded water may be located at Legacy Park adjacent and down gradient from your disposal area. Additional information must be provided to demonstrate that your proposed sub-surface disposal can be considered disposal and not water reclamation.
6. A revised ROWD for the planned discharge (17,000 gpd) must be submitted at least a month before the ROWD can be finalized to allow staff review time. We must reach agreement on the final ROWD at least 120 days prior to the Regional Board's consideration of the Waste Discharge Requirements and any planned discharge. The approved Engineering Report, if required, for reclaimed water must be submitted with the revised ROWD.
7. The design must be modified if the model shows a negative effect on storm or waste disposal in the Civic Center.
8. If surface irrigation will be necessary under any conditions at Malibu Lumber, a Title 22 Engineering Report from the California Department of Public Health (CDPH) must be approved before the ROWD will be finalized.

#### **Legacy Park Coordination**

Regional Board approval must be received at several stages before the subject WDR can be approved. We include a tentative schedule listing these milestones in the preparation of the ROWD for your project, the construction of Legacy Park and a Civic Center waste water treatment system. Specifically, implementation of the waste water treatment plant design must proceed at a pace such that the Regional Board can be assured that the proposed projects will not prevent its operation with earlier discharge from private development.

On February 13, 2008 staff learned that the existing EIR plan for Legacy Park does not include a waste water treatment plant nor does it protect assimilative capacity in the Civic Center for effluent disposal should a waste treatment plant be located in the Park. Even if the effluent from the future waste water treatment plant will be transported outside the Civic Center and discharged where the waste was generated without groundwater impact at Legacy Park, the

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site and groundwater impact for the treatment plant need to be identified for inclusion in the groundwater study and assessment of the Malibu Lumber ROWD.

While we recognize the City's continuing commitment to minimize discharge from failing septic systems in the Civic Center and at the Malibu Colony through storm water management and a waste water treatment plant, additional collaboration is necessary during the permitting process to support development projects like Malibu Lumber. Board staff seeks clarification on possible conflicts between the City's Final Integrated Water Quality Management (IWQMP) Feasibility Study (4/28/2005), the forthcoming Legacy Park DEIR and the Malibu Lumber ROWD. We applaud the City Council's actions in initiating a groundwater modeling effort to identify the assimilative capacity for future groundwater disposal. The location of the waste water treatment plant and its final design including discharge location and volume are considered to be an essential part of the IWQMP to be included in the groundwater study.

Table 1: Milestones for Malibu Civic Center Waste Storm Water Treatment and Developments

Date	City of Malibu	RWQOB	Waste Treatment Plant (WWTP)	Legacy Park	Malibu Lumber	Malibu La Paz
Jan 2008	Funding, RFP for GW model	Incomplete ROWD letter for Lumber, La Paz		Internal review of EIR	Revised Design to City	Begin DPH Title 22 rpt
Feb	Approve La Paz EIR, Approve modeler, Begin modeling	Comment on EIR for Legacy Park, Review modeling RFP	Identify WWTP discharge volumes and location for GW study	Release EIR		
Mar	Approve Legacy Park EIR		Begin DEIR for WWTP		Modify ROWD	
Apr	First results model	Review preliminary GW model, Finalize Malibu Lumber ROWD and begin WDR	Circulate DEIR for WWTP, Begin RFP for WWTP construction	Modify Design to include model results and prevent conflict with Lumber, La Paz and WWTP	Modify ROWD, Design to prevent conflict with Legacy Park/La Paz/WWTP and model results	Modify ROWD, Design to prevent conflict with Legacy Park/WWTP/Lumber and model results
June 2008	Final results GW modeling/ Approve EIR/RFP WWTP	Review final results modeling, Review La Paz ROWD	Review WWTP contractors	Begin Phase 1 construction		Receive DHS title 22 approval, Submit ROWD
Aug	Select WWTP contractor	Final Malibu Lumber WDR, Draft completed	Begin Design WWTP	Begin Title 22 Rpt for DPH	Modify WDR	
Sept		Final La Paz ROWD				

Mr. O'Brien  
Malibu Lumber

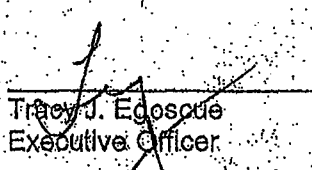
- 4 -

February 15, 2008

Date	City of Malibu	RWQOB	Waste Treatment Plant (WWTP)	Legacy Park	Malibu Lumber	Malibu La Paz
Oct		Final Malibu Lumber WDR				
Dec		Board hear Malibu Lumber WDR		DPH approval Title 22 rpt	Begin building w/ permitting	
Jan 2009		Begin preparation of La Paz WDR/WRRs		Phase 2 construction		
Mar		La Paz WDR/WRR draft final	Begin WWTP ROWD			Chg WDR/WRR
Apr		La Paz WDR/WRR Final				
July 2009		State Board due to issue Gen Irrigation Permit			Open	
Aug		Board hear La Paz WDR/WRR	Submit WWTP ROWD			Begin building w/ permitting
Jan 2010		Finalize WWTP ROWD and begin WDR				
July 2010		Board hear Legacy WWTP WDR				Open


We look forward to your comments and appreciate your assistance in providing the necessary information in a timely fashion. If you have any questions, please call Elizabeth Erickson at (213) 620-2264.

Sincerely,

  
Tracy J. Egoscue  
Executive Officer

cc: Mr. Gordon Innes, Division of Water Quality, State Water Resources Control Board  
Mr. Craig George, Mr. Granville Bowman, Mr. Andrew Sheldon, Mr. Jim Thorsen, City of Malibu  
Mr. Don Schmitz, Schmitz and Associates, Inc.  
Mr. John Yaroslaski, Ensitu Engineering, Inc.  
Mr. Pio Lombardo, Lombardo Engineering, Inc.  
Mr. William C. Stratton, County of Ventura, Environmental Health Division  
Carl Sjoberg, Department of Public Works, Environmental Program Division, County of Los Angeles  
Richard Wagener, Department of Health Services, County of Los Angeles  
Chi Diep, CA Dept. of Public Health Drinking Water Program

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# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

January 15, 2008

Mr. Don Schmitz  
Schmitz and Associates, Inc.  
Malibu Headquarters  
29350 West Pacific Coast Highway, Suite 12  
Malibu, CA 90265

### **TECHNICAL REVIEW OF MALIBU LA PAZ DEVELOPMENT: REQUEST FOR WASTE DISCHARGE/WATER RECLAMATION REQUIREMENTS (FILE NO. 08-0101)**

Dear Mr. Schmitz,

The Regional Board staff have completed a review of your Report of Waste Discharge (ROWD) received on December 22, 2006 and have assessed the adequacy of the ROWD to support Waste Discharge Requirements (WDR)/ Water Reclamation Requirements (WRR) for the project. This review is not related to, or in response to, the Draft Environmental Impact Report which the City of Malibu (City) has prepared as lead agency for the Malibu La Paz Development Project (Project).

#### **Background**

The development would be located on 15.03 acres at 3700 La Paz Lane in the Civic Center in Malibu. Seven buildings are proposed with 112,508 square feet (ft<sup>2</sup>) of office, restaurant and commercial space and a 20,000 ft<sup>2</sup> City Hall with 609 subsurface parking spaces and waste flows greater than 20,000 gallons per day (gpd). The ROWD application is for two projects with the 'alternative' project lacking the City Hall building. The 'preferred project' with City Hall was assessed here. The site is about 1,000 feet west of Malibu Creek.

The December 22, 2006, Engineering Design by EnSitu describes a wastewater treatment system to dispose of a maximum of 29,620 gpd of waste. The collection and treatment system consists of sanitary sewer lines, a grease interceptor, a primary settling tank, an equalization tank, a High Strength FAST treatment using fixed media bacteria with odor control, chlorine tablet disinfection and average subsurface disposal of 7,500 gpd through groundwater discharge and/or irrigation.

The January 8, 2008, Engineering Design by Lombardo Associates, Inc. also uses these treatment components and adds a substantial water reuse system for the buildings, an 800,000 gallon irrigation and holding tank, groundwater wells, a potable supply delivery system for irrigation, and a wetlands. It relies on a computer model to provide ongoing assessment of evapotranspiration to direct disposal of wastewater.

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After receiving the ROWD, Staff notified you that the document was incomplete, and supplemental material was provided on March 2, 2007. Staff provided comments on Civic Center projects, including Malibu La Paz Development, to the City of Malibu staff on June 28, July 27, August 27, and September 27, 2007. Staff had a teleconference with both the City and you and your staff on October 29, 2007 on the project. Additional technical information was supplied in support of your ROWD on October 31, 2007. A response to the technical content of the Draft EIR was provided to you on November 5, 2007. Staff met again with Mr. Jim Thorsen and staff from the City on groundwater issues on November 20, 2007. An additional meeting was held with you at the Regional Board on January 8, 2008 at which time substantial technical revisions to the ROWD, sufficient to require the preparation of WRR, were provided. Meetings between your consultant and staff followed between that date and the preparation of this summary. Written correspondence documenting the details of our technical assessment of your ROWD is under review, but our findings were shared with your consultant, Mr. Pio Lombardo, on January 14, 2008.

### **Findings**

Staff has determined the ROWD is incomplete. The engineering material presented is sufficient to support the design concept, but not yet sufficient to ensure that the required regulatory approval can be received for each of the components.

### **Discussion**

The Project design concept is innovative for the City of Malibu area, and may result in very little and perhaps no discharges to shallow groundwater. However, it requires new regulatory review and support for aggressive water re-use within the facility which now includes waste reclamation of irrigation return waters and toilet flushing using Title 22 compliant wastewater discharge through landscape evapotranspiration.

The material presented before and during the review period suggests that it may be possible to obtain support for the design concepts with additional Discharger preparation. Specifically, (1) the California Department of Public Health (CDPH) must approve an Engineering Report for the Production, Distribution, and Use of Recycled Water (Title 22, California Code of Regulations) for the use of any recycled water. The Engineering Report and operational requirements must be approved in advance and provided to the Regional Board before your ROWD can be considered to be complete. (2) The design must be modified to meet the plumbing code assumptions for water use even if the WDR/WRR are for lower discharge volumes and based on your documented lower restaurant consumption. (3) Additional documentation must be provided demonstrating the successful operation of landscape irrigation in a heavily trafficked area such as the Civic Center to confirm the analytical evapotranspiration model presented. (4) Short term impacts on the groundwater elevation from unusual discharge or storm events have not been modeled, except with a steady state model. Confirmation that this use can coexist with City of Malibu commitments for disposal in Legacy Park is required, preferably with a transient groundwater model. And (5) additional odor control design may be necessary.

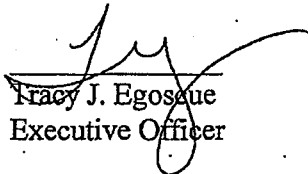
Mr. Don Schmitz  
Schmitz and Associates

- 3 -

January 15, 2008

If you have any questions or need clarification please contact Rod Nelson at (213) 620 2991 or Elizabeth Erickson at (213) 620 2264.

Sincerely,

  
Tracy J. Egosaue  
Executive Officer

CC.

Kurt Souza, California Department of Public Health  
Jim Thorson, City of Malibu, [jthorson@ci.malibu.ca.us](mailto:jthorson@ci.malibu.ca.us)  
Stacy Rice, City of Malibu, [srice@ci.malibu.ca.us](mailto:srice@ci.malibu.ca.us)  
Craig George, City of Malibu, [cgeorge@ci.malibu.ca.us](mailto:cgeorge@ci.malibu.ca.us)  
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Pio Lombardo, [pio@LombardoAssociates.com](mailto:pio@LombardoAssociates.com)

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# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone: (213) 576-6600 FAX: (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

June 11, 2008

Mr. Don Schmitz  
Schmitz and Associates, Inc.  
29350 West Pacific Coast Highway, Suite 12  
Malibu, CA 90265

Dear Mr. Schmitz:

### STATUS OF REPORT OF WASTE DISCHARGE, MALIBU LA PAZ, 3700 LA PAZ LANE, MALIBU, CALIFORNIA (FILE NO. 08-0101)

The Los Angeles Regional Water Quality Control Board (Regional Board) staff acknowledges your inquiry on the status of review for your project and your request for concept approval of your technical design. The Report of Waste Discharge, received on December 22, 2008, is under review. Conceptual approval and preparation of the Waste Discharge Requirements can be considered once CEQA is approved by the City of Malibu and the Report of Waste Discharge (ROWD) is complete.

At our meeting with you on January 8, 2008, we found that your ROWD did not include a current engineering design for your construction. This information was provided during subsequent meetings on January 8, 9, and 10, 2008. After evaluating the new material, we described the information which was still missing in a letter on January 15, 2008 (attached) and detailed email comments between January 9 and March 22, 2008. On February 26, 2008, we met with the California Department of Public Health to discuss your case and your request for an early review. At our request they agreed to give your project an early conceptual review. On April 8, 2008, we received a copy of your submittal to the California Department of Public Health, which they are now reviewing.

We will begin our review of your ROWD when La Paz's CEQA is approved by the City.

If you have any questions, please call Project Manager, Ms. Elizabeth Erickson at (213) 620-2264 or Unit Chief, Dr. Rebecca Chou at (213) 620 6166.

Sincerely,

  
Tracy J. Egoscue  
Executive Officer

Attachment  
Cc with attachment:

Mr. Craig George, Mr. Granville Bowman, Mr. Andrew Sheldon, Mr. Jim Thorsen, City of Malibu  
Mr. John J. O'Brien, Malibu Lumber LLC  
Mr. John Yaroslaski, Ensite Engineering, Inc.  
Mr. Pio Lombardo, Lombardo Engineering, Inc.  
Mr. Chi Diep, CA Public Health Drinking Water Program

**California Environmental Protection Agency**

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## EXHIBIT 10



Cox, Castle & Nicholson LLP  
2049 Century Park East, 28<sup>th</sup> Floor  
Los Angeles, California 90067-3284  
P 310.277.4222 F 310.277.7889

Stanley W. Lampert  
310.284.2275  
slampert@coxcastle.com

February 12, 2009

File No. 47864.

**VIA FACSIMILE AND U. S. MAIL**

Ms. Tracy J. Egoscue  
Executive Officer  
California Regional Water Quality Control Board, Los Angeles Region  
320 W. 4th Street, Suite 200  
Los Angeles, California 90013

**Re: Malibu La Paz Ranch Application For Waste Discharge Requirements  
3700 La Paz Lane, Malibu, California (File No. 08-0101)**

Dear Ms. Egoscue:

We represent Malibu La Paz Ranch, LLC ("La Paz") in connection with the application for the Waste Discharge Requirements ("WDRs") referenced above. The purpose of this letter is to confirm our understanding of the status of the application.

La Paz submitted its revised WDR application to your region office of the Regional Water Quality Control Board ("Board") on January 8, 2008. In letters dated January 15, 2008 and February 15, 2008, the Board informed La Paz that the application was not complete. Since that time, La Paz provided all of the information the Board requested in the foregoing letters. On June 11, 2008, the Board confirmed receipt of the additional information and informed La Paz that it would begin reviewing La Paz's application "when La Paz's CEQA is approved by the City [of Malibu]."

The City of Malibu certified the EIR and approved La Paz's project on November 10, 2008. In a letter dated December 2, 2008, La Paz submitted the City's CEQA documentation to the Board and informed the Board that the application was complete in light of the Board's prior correspondence.

La Paz has not received any response from the Board since its December 2, 2008 submittal. Accordingly, under the Permit Streamlining Act, the application was deemed to be complete as of January 1, 2009. (Gov. Code, § 65943 (b).)

Since La Paz's application is now deemed complete, the Board now has 180-days, or until June 30, 2009, to act on La Paz's application. (Gov. Code, § 65952 (a)(2).)